Strengthening the Canadian Federation

The Constitution Amendment, 1987

Government of Canada
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Canada stands on the threshold of a stronger partnership based on a renewed respect for the regional and linguistic diversity that gives our country its unique identity.

The door was opened on June 3, 1987, when the Prime Minister and all 10 Premiers followed up their April meeting at Meech Lake by agreeing to place the *Constitution Amendment, 1987* before Parliament and the provincial legislatures for adoption.

This booklet sets out and explains the text of an amendment that strengthens Canadian unity.

Unfinished Business—Wrapping up unfinished business, the *Constitution Amendment, 1987* complements guarantees already written into the Constitution for our multicultural heritage, for aboriginal rights and for official-language minorities in every part of Canada.

Quebec was left out of the agreement that led to the *Constitution Act, 1982*, and adoption of the *Amendment* will bring it back into the Canadian constitutional family as a full and willing partner in future progress.

Spirit of Federalism—The *Constitution Amendment, 1987* meets Quebec's concerns, affirms the equality of all provinces and promotes the national interest.

It offers every province a chance to cooperate with the federal government through national institutions and to share in setting common goals for the future.

While existing social programs like medicare and policies like family reunification in immigration remain unchanged, the *Amendment* sets out means for sharing the cost of new national programs and pursuing national objectives in areas of provincial jurisdiction, while respecting special concerns and needs in each province.

It will also ensure better federal-provincial coordination through annual meetings of the Prime Minister and the Premiers to discuss constitutional and economic issues of interest to all Canadians.

In this way, it realistically reflects the essence of federalism—a central government and provincial governments, all strong in their own spheres but working together on behalf of the public.

Step by Step—The *Constitution Amendment, 1987* is the latest step in a continuing process of nation-building.

Canada has one of the oldest written constitutions in the world, and the federal and provincial governments have been at work for two decades to bring it up to date as a living document that meets the evolving needs of Canadians.

A major step was taken in 1982 when the *Canadian Charter of Rights and Freedoms* became part of our Constitution and an amending formula for future constitutional change was put in place.

But that reform remained incomplete: Without Quebec, it was more difficult to secure further constitutional amendments requiring the consent of two-thirds of the provinces with half the nation's population and impossible to secure those calling for unanimous agreement.

The problem of Quebec's constitutional isolation—a legacy of 1981-82 and a potential source of conflict and disunity—is not one we will be leaving to our children.

Built on past achievements and on continuing consultations over the years, the *Amendment* squarely faces this problem and takes another careful step forward.

Looking Ahead—Adoption of the *Constitution Amendment, 1987* will not be the end of constitutional reform in Canada.

The Constitution reflects what Canadians are—equals who take pride in the way they have made their diversity a building block of unity, not a stumbling block.

It is also a tool for achieving their hopes for the future, and this *Amendment* creates a framework within which the nation's elected leaders, federal and provincial, will meet the challenges that Canada faces.

An agenda for future constitutional discussion is already taking shape.

Linguistic Duality and Quebec's Distinct Society

The presence of two major language groups is one of the most enduring and obvious facts about Canada.

About a quarter of our people are French-speaking while almost all the rest speak English, sometimes in addition to another language.

Historically, it is this linguistic duality that has made diversity, not 'the melting pot,' a Canadian ideal.

There are English-speaking and French-speaking Canadians in all parts of Canada. But most French-speaking Canadians live in Quebec, while most English-speaking Canadians live in the other provinces and the territories - and this is an important part of what makes Quebec a distinct society within Canada.

Basic Facts—The *Constitution Amendment, 1987* gives constitutional standing for the first time to these basic facts.

Clause 1 recognizes Canada's linguistic duality and the role of Parliament and all provincial legislatures in preserving this feature of our national life.

It also recognizes the key role of the legislature and government of Quebec in preserving and promoting the identity of that province as a distinct society within Canada.

Minority Rights

Recognition of linguistic duality and Quebec's distinct society in the *Constitution Amendment, 1987* complements the recognition of rights already enshrined in the Constitution.

Official Languages—The presence of Anglophones in Quebec and Francophones in the other provinces is part of the linguistic duality that clause 1 of the *Amendment* recognizes.

Existing constitutional rights to use either English or French in Parliament and federal courts as well as in certain provincial legislatures or provincial courts, and minority-language education rights spelled out in the *Canadian Charter of Rights and Freedoms* remain unchanged.

Aboriginal Rights—The historic and treaty rights of Indians, Inuit and Métis—Canada's aboriginal peoples—were protected in the Constitution in 1982, and clause 16 of the *Constitution Amendment, 1987* reaffirms these rights.

Attempts to further define aboriginal rights in the Constitution have not yet been successful, although four Conferences of First Ministers have been convened in the past five years.

But the federal government is still committed to this goal, maintaining contact with aboriginal associations and the provinces in a search for a consensus that would make formal constitutional talks on this issue practical.

Multiculturalism—Canada's multicultural heritage was also previously protected by the Constitution, and clause 16 of the *Constitution Amendment, 1987* confirms this guarantee.

The federal government will, of course, continue its support for multiculturalism programs that help make the heritage of millions of Canadians a living reality.

The Spending Power

When Canada's Constitution was first written in 1867, the future importance and cost of such programs as education, health and social services could not be foreseen.

While the provincial governments were made responsible for these programs, not all provinces could afford to provide adequate levels of services, so the federal government makes equalization payments to them.

In addition, the federal government has assisted in establishing such national programs as hospital insurance and medicare by sharing the costs with the provinces.

But the federal government's power to establish such national programs has often been a source of controversy because these programs were in areas of provincial jurisdiction.

The *Constitution Amendment, 1987* is designed to make sure that the diversity of our country is fully reflected when new national programs are created to meet the needs of Canadians.

Clause 7 will ensure that no province is penalized for setting up programs of its own instead of participating in national programs in areas of exclusive provincial jurisdiction.

If the provincial program or initiative is compatible with the national objectives, the province will get "reasonable compensation"—in effect, the money that the federal government would have contributed to the shared-cost program in that province.

Flexibility—What is new in the *Amendment* is a guarantee that provinces can pursue national objectives in their own way, if that is what their electors want, without losing their share of federal funds.

Every province has always had the right not to take part in shared-cost programs; Parliament has never had the power to make them do so.

As public needs are defined, new shared-cost programs will be established, as they have been in the past. But provinces will have a say in how these programs will be designed.

And the elected representatives of the people, at both the federal and provincial levels, will be able to focus on meeting the needs of Canadians without squabbling about how to divide the bill.

Economic Conferences—Federal-provincial conferences on social and economic issues have long been an important forum for meshing the policies of the two orders of government.

The *Constitution Amendment, 1987* breaks new ground in making sure that First Ministers meet at least once a year to discuss economic and other matters and to foster increased understanding and cooperation.

Regular exchanges of views will help First Ministers keep abreast of needs in all parts of the country and work together in designing their policies to avoid duplication.

Immigration

The federal and provincial governments, under the existing Constitution, share responsibility for immigration, though federal law overrides provincial law if there is a conflict.

Because of their social and economic priorities, provinces sometimes want to receive immigrants with particular aptitudes, and six provinces now have agreements with the federal government about immigrants coming to live within their borders.

Clause 3 of the *Constitution Amendment, 1987* will require the federal government to negotiate such an agreement with any province that wants to have a say in immigration.

However, the federal government will keep supreme authority over national standards and objectives like family reunification, which is a major feature of the Canadian approach to immigration, and over total numbers of immigrants admitted each year.

In addition, the federal government remains solely responsible for granting citizenship.

Freedom of Choice—Immigrants will not be forced to settle in a particular part of the country, any more than they can be now.

And once in Canada, they will continue to have the same freedom as everyone else under the *Canadian Charter of Rights and Freedoms* to move from one part of the country to another.

Because of its concern for promoting its distinct society with a Francophone majority and an Anglophone minority, Quebec has always had a special interest in immigration.

With the support of all 10 Premiers, the federal government is committed to negotiating an agreement ensuring that Quebec has the right to select a number of immigrants, including refugees, that will allow it to maintain its relative weight within Canada.

Procedures for selecting immigrants to Quebec will remain largely the same as they have been since 1978, except that Quebec will get an expanded role in the selection of immigrants who apply from within Canada.

Nothing will force immigrants to choose Quebec as their destination; it will be up to Quebec to attract them.

The agreement with Quebec will also let the province assume responsibility for services to immigrants that would otherwise be provided by the federal government, so the province can assist the integration of new immigrants into Quebec's distinct society.

National Institutions

Partnership between the federal and provincial governments is the core of federalism.

In federalism, each order of government is responsible for certain matters—education in the case of the provinces and defence in the case of the federal government, for example—and they share the task of making the country work as a whole.

The *Constitution Amendment, 1987* will strengthen the federal nature of two key institutions—the Supreme Court of Canada and the Senate—by giving provincial governments a say alongside the federal government in choosing members.

The Supreme Court—One of the central roles of the Supreme Court of Canada is to settle disputes about the meaning of the Constitution, including disputes between the federal and provincial governments.

Yet, until now, all appointments to this Court have been made by the federal government alone.

Clause 6 of the *Constitution Amendment, 1987* will enhance the federal character of the Supreme Court as the referee of constitutional disputes by giving the provinces a voice in the selection of judges.

The appointment will be made by, and will have to be acceptable to, the federal government as the voice of all Canadians, but it will have to choose from names submitted by the provinces.

Ever since the Supreme Court was created, a third of the judges have come from Quebec, to ensure that the Court can deal with cases based on Quebec's system of civil law, as well as those based on the common law system of the rest of the country.

This will continue, and Quebec can submit names when any of the three "civil law" judges is appointed, while the nine other provinces can submit names when the other six judges are appointed.

The Senate—At the time of Confederation, the Senate was intended to provide a forum for regional voices in the national Parliament, and each province has a constitutional right to be represented in the Senate.

Clause 2 of the *Constitution Amendment, 1987* takes this principle a step further.

A new Senator will have to be acceptable to both the federal government and the government of the province the Senator represents.

Appointments to the Senate will continue to be made by the federal government, but provinces will have a say in who is appointed.

Thus Canada ceases to be the only major federation in the Western world where members of the second chamber are chosen solely by the central government.

As evidence of its commitment to address fundamental Senate reform, the federal government has agreed to start applying this rule immediately.

Further reform of the Senate is one of the items on the agenda for future constitutional talks.

The Amending Formula

One of the most important parts of any constitution is the formula for amending it; usually the more fundamental the provision concerned, the higher the degree of agreement needed to make changes.

Under Canada's Constitution, the general rule is that amendments require the consent of Parliament and the legislatures of two-thirds of the provinces accounting for half the population. This will not change with the current amendments.

But the consent of Parliament and all legislatures is required for some of the most important amendments—the composition of the Supreme Court, for example, and the amending formula itself.

Unanimity protects the vital interests of all provinces when amendments to key national institutions are planned.

Clause 9 of the *Constitution Amendment, 1987* will give *all* provinces a say over additional areas of fundamental importance.

Unanimous agreement has been achieved repeatedly in Canadian history—on the establishment of unemployment insurance and old age pensions, for example, and on the *Constitution Amendment, 1987* itself. So unanimity need not be a straitjacket.

Compensation—Clause 9 also provides that when a provincial power is transferred to Parliament, a province that is not affected will get reasonable compensation to ensure that its residents are not taxed for services they do not receive.

The Future of Constitutional Reform

The intent of the current round of constitutional reform was to address a limited number of issues designed to convince Quebec to rejoin the Canadian constitutional family and, thereby, to unblock the process of further constitutional change.

Now, many other issues can be addressed in the coming years, as Canadians chart the path into the future.

Although there have been several proposals for further Senate reform over the years, for example, agreement has been elusive.

The federal and provincial governments, together with representatives of territorial governments and the Indian, Inuit and Métis peoples, also still face the challenge of providing a more precise constitutional definition of aboriginal rights.

Canada still has unfinished business on the constitutional agenda and, as a modern and growing society, it will confront new problems in the years ahead.

Instead of ignoring unresolved constitutional issues, the *Constitution Amendment, 1987* will establish a forum for dealing with them.

Clause 13 provides for a conference at least once a year, starting in 1988, where First Ministers can tackle other constitutional issues. As with the current amendments, the outcome of such conferences would be debated fully in Parliament and the provincial legislatures.

Public Participation

Canadians have a chance to take part in the constitution-making process.

Joint Senate-House of Commons hearings will explore the implications of the *Constitution Amendment, 1987* so it is well understood by everyone.

Perhaps more important, evidence before the hearings by experts and interested members of the public and the report of the Joint Committee will help set the agenda for First Ministers when they start their series of regular constitutional conferences under the *Amendment*.

A Stronger Partnership

Canada is a land where respecting each other's differences has made it possible to work together in building a strong nation.

This is the spirit of the *Constitution Amendment, 1987*.

It gives both federal and provincial governments a say in key national institutions, the federal spending power, immigration and certain constitutional amendments.

It puts in place machinery for federal-provincial cooperation in pursuing constitutional reform and in meeting the economic needs of Canadians.

It adds the dimension of linguistic duality and Quebec's distinct society to the constitutional recognition of other community values like multiculturalism and aboriginal rights.

In doing these things, it cements Canadian unity.

Constitution Amendment, 1987

Following is the text of the Constitutional Accord approved by the Prime Minister and all provincial Premiers on June 3, 1987, which provided the basis for submitting a resolution to Parliament and the provincial legislatures, seeking approval of the *Constitution Amendment, 1987*.*

1987 CONSTITUTIONAL ACCORD

WHEREAS first ministers, assembled in Ottawa, have arrived at a unanimous accord on constitutional amendments that would bring about the full and active participation of Quebec in Canada's constitutional evolution, would recognize the principle of equality of all the provinces, would provide new arrangements to foster greater harmony and cooperation between the Government of Canada and the governments of the provinces and would require that annual first ministers' conferences on the state of the Canadian economy and such other matters as may be appropriate be convened and that annual constitutional conferences composed of first ministers be convened commencing not later than December 31, 1988;

AND WHEREAS first ministers have also reached unanimous agreement on certain additional commitments in relation to some of those amendments;

NOW THEREFORE the Prime Minister of Canada and the first ministers of the provinces commit themselves and the governments they represent to the following:

1. The Prime Minister of Canada will lay or cause to be laid before the Senate and House of Commons, and the first ministers of the provinces will lay or cause to be laid before their legislative assemblies, as soon as possible, a resolution, in the form appended hereto, to authorize a proclamation to be issued by the Governor General under the Great Seal of Canada to amend the Constitution of Canada.

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* While the general principles described in the introductory pages of this booklet are clear from a reading of the text, the proposed amendments include a number of technical provisions and there are frequent references to the *Constitution Acts, 1867 to 1982*. For a detailed understanding, it is therefore necessary to consult the *Constitution Acts, 1867 to 1982*, which can be found in libraries or ordered (Catalogue No. YX1-1/1986E) at a price of $4.25 each ($5.10 outside Canada) from the *Canadian Government Publishing Centre, Supply and Services Canada, Ottawa, Ontario, K1A 0S9*. Cheques and money orders are payable to the Receiver General for Canada.

2. The Government of Canada will, as soon as possible, conclude an agreement with the Government of Quebec that would

(*a*) incorporate the principles of the Cullen-Couture agreement on the selection abroad and in Canada of independent immigrants, visitors for medical treatment, students and temporary workers, and on the selection of refugees abroad and economic criteria for family reunification and assisted relatives,

(*b*) guarantee that Quebec will receive a number of immigrants, including refugees, within the annual total established by the federal government for all of Canada proportionate to its share of the population of Canada, with the right to exceed that figure by five per cent for demographic reasons, and

(*c*) provide an undertaking by Canada to withdraw services (except citizenship services) for the reception and integration (including linguistic and cultural) of all foreign nationals wishing to settle in Quebec where services are to be provided by Quebec, with such withdrawal to be accompanied by reasonable compensation,

and the Government of Canada and the Government of Quebec will take the necessary steps to give the agreement the force of law under the proposed amendment relating to such agreements.

3. Nothing in this Accord should be construed as preventing the negotiation of similar agreements with other provinces relating to immigration and the temporary admission of aliens.

4. Until the proposed amendment relating to appointments to the Senate comes into force, any person summoned to fill a vacancy in the Senate shall be chosen from among persons whose names have been submitted by the government of the province to which the vacancy relates and must be acceptable to the Queen's Privy Council for Canada.

MOTION FOR A RESOLUTION TO AUTHORIZE AN AMENDMENT TO THE CONSTITUTION OF CANADA

WHEREAS the *Constitution Act, 1982* came into force on April 17, 1982, following an agreement between Canada and all the provinces except Quebec;

AND WHEREAS the Government of Quebec has established a set of five proposals for constitutional change and has stated that amendments to give effect to those proposals would enable Quebec to resume a full role in the constitutional councils of Canada;

AND WHEREAS the amendment proposed in the schedule hereto sets out the basis on which Quebec's five constitutional proposals may be met;

AND WHEREAS the amendment proposed in the schedule hereto also recognizes the principle of the equality of all the provinces, provides new arrangements to foster greater harmony and cooperation between the Government of Canada and the governments of the provinces and requires that conferences be convened to consider important constitutional, economic and other issues;

AND WHEREAS certain portions of the amendment proposed in the schedule hereto relate to matters referred to in section 41 of the *Constitution Act, 1982*;

AND WHEREAS section 41 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and the House of Commons and of the legislative assembly of each province;

NOW THEREFORE the (Senate) (House of Commons) (legislative assembly) resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE

CONSTITUTION AMENDMENT, 1987

Constitution Act, 1867

1. The *Constitution Act, 1867* is amended by adding thereto, immediately after section 1 thereof, the following section:

Interpretation

"**2.** (1) The Constitution of Canada shall be interpreted in a manner consistent with

(*a*) the recognition that the existence of French-speaking Canadians, centred in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec, constitutes a fundamental characteristic of Canada; and

(*b*) the recognition that Quebec constitutes within Canada a distinct society.

Role of Parliament and legislatures

(2) The role of the Parliament of Canada and the provincial legislatures to preserve the fundamental characteristic of Canada referred to in paragraph (1)(*a*) is affirmed.

Role of legislature and Government of Quebec

(3) The role of the legislature and Government of Quebec to preserve and promote the distinct identity of Quebec referred to in paragraph (1)(*b*) is affirmed.

Rights of legislatures and governments preserved

(4) Nothing in this section derogates from the powers, rights or privileges of Parliament or the Government of Canada, or of the legislatures or governments of the provinces, including any powers, rights or privileges relating to language."

2. The said Act is further amended by adding thereto, immediately after section 24 thereof, the following section:

Names to be submitted

"**25.** (1) Where a vacancy occurs in the Senate, the government of the province to which the vacancy relates may, in relation to that vacancy, submit to the Queen's Privy Council for Canada the names of persons who may be summoned to the Senate.

Choice of Senators from names submitted

(2) Until an amendment to the Constitution of Canada is made in relation to the Senate pursuant to section 41 of the *Constitution Act, 1982*, the person summoned to fill a vacancy in the Senate shall be chosen from among persons whose names have been submitted under subsection (1) by

the government of the province to which the vacancy relates and must be acceptable to the Queen's Privy Council for Canada."

3. The said Act is further amended by adding thereto, immediately after section 95 thereof, the following heading and sections:

"Agreements on Immigration and Aliens

Commitment to negotiate

95A. The Government of Canada shall, at the request of the government of any province, negotiate with the government of that province for the purpose of concluding an agreement relating to immigration or the temporary admission of aliens into that province that is appropriate to the needs and circumstances of that province.

Agreements

95B. (1) Any agreement concluded between Canada and a province in relation to immigration or the temporary admission of aliens into that province has the force of law from the time it is declared to do so in accordance with subsection 95C(1) and shall from that time have effect notwithstanding class 25 of section 91 or section 95.

Limitation

(2) An agreement that has the force of law under subsection (1) shall have effect only so long and so far as it is not repugnant to any provision of an Act of the Parliament of Canada that sets national standards and objectives relating to immigration or aliens, including any provision that establishes general classes of immigrants or relates to levels of immigration for Canada or that prescribes classes of individuals who are inadmissible into Canada.

Application of Charter

(3) The *Canadian Charter of Rights and Freedoms* applies in respect of any agreement that has the force of law under subsection (1) and in respect of anything done by the Parliament or Government of Canada, or the legislature or government of a province, pursuant to any such agreement.

Proclamation relating to agreements

95C. (1) A declaration that an agreement referred to in subsection 95B(1) has the force of law may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of the province that is a party to the agreement.

Amendment of agreements

(2) An amendment to an agreement referred to in subsection 95B(1) may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized

(*a*) by resolutions of the Senate and House of Commons and of the legislative assembly of the province that is a party to the agreement; or

(*b*) in such other manner as is set out in the agreement.

Application of sections 46 to 48 of *Constitution Act, 1982*

95D. Sections 46 to 48 of the *Constitution Act, 1982* apply, with such modifications as the circumstances require, in respect of any declaration made pursuant to subsection 95C(1), any amendment to an agreement made pursuant to subsection 95C(2) or any amendment made pursuant to section 95E.

Amendments to sections 95A to 95D or this section

95E. An amendment to sections 95A to 95D or this section may be made in accordance with the procedure set out in subsection 38(1) of the *Constitution Act, 1982*, but only if the amendment is authorized by resolutions of the legislative assemblies of all the provinces that are, at the time of the amendment, parties to an agreement that has the force of law under subsection 95B(1)."

4. The said Act is further amended by adding thereto, immediately preceding section 96 thereof, the following heading:

"General"

5. The said Act is further amended by adding thereto, immediately preceding section 101 thereof, the following heading:

"Courts Established by the Parliament of Canada"

6. The said Act is further amended by adding thereto, immediately after section 101 thereof, the following heading and sections:

"Supreme Court of Canada

Supreme Court continued

101A. (1) The court existing under the name of the Supreme Court of Canada is hereby continued as the general court of appeal for Canada, and as an additional court for the better administration of the laws of Canada, and shall continue to be a superior court of record.

Constitution of court

(2) The Supreme Court of Canada shall consist of a chief justice to be called the Chief Justice of Canada and eight other judges, who shall be appointed by the Governor General in Council by letters patent under the Great Seal.

Who may be appointed judges

101B (1) Any person may be appointed a judge of the Supreme Court of Canada who, after having been admitted to the bar of any province or territory, has, for a total of at least ten years, been a judge of any court in Canada or a member of the bar of any province or territory.

Three judges from Quebec

(2) At least three judges of the Supreme Court of Canada shall be appointed from among persons who, after having been admitted to the bar of Quebec, have, for a total of at least ten years, been judges of any court of Quebec or of any court established by the Parliament of Canada, or members of the bar of Quebec.

Names may be submitted

101C. (1) Where a vacancy occurs in the Supreme Court of Canada, the government of each province may, in relation to that vacancy, submit to the Minister of Justice of Canada the names of any of the persons who have been admitted to the bar of that province and are qualified under section 101B for appointment to that court.

Appointment from names submitted

(2) Where an appointment is made to the Supreme Court of Canada, the Governor General in Council shall, except where the Chief Justice is appointed from among members of the Court, appoint a person whose name has been submitted under subsection (1) and who is acceptable to the Queen's Privy Council for Canada.

Appointment from Quebec

(3) Where an appointment is made in accordance with subsection (2) of any of the three judges necessary to meet the requirement set out in subsection 101B(2), the Governor General in Council shall appoint a person whose name has been submitted by the Government of Quebec.

Appointment from other provinces

(4) Where an appointment is made in accordance with subsection (2) otherwise than as required under subsection (3), the Governor General in Council shall appoint a person whose name has been submitted by the government of a province other than Quebec.

Tenure, salaries, etc., of judges

101D. Sections 99 and 100 apply in respect of the judges of the Supreme Court of Canada.

Relationship to section 101

101E. (1) Sections 101A to 101D shall not be construed as abrogating or derogating from the powers of the Parliament of Canada to make laws under section 101 except to the extent that such laws are inconsistent with those sections.

References to the Supreme Court of Canada

(2) For greater certainty, section 101A shall not be construed as abrogating or derogating from the powers of the Parliament of Canada to make laws relating to the reference of questions of law or fact, or any other matters, to the Supreme Court of Canada."

7. The said Act is further amended by adding thereto, immediately after section 106 thereof, the following section:

Shared-cost program

"**106A.** (1) The Government of Canada shall provide reasonable compensation to the government of a province that chooses not to

participate in a national shared-cost program that is established by the Government of Canada after the coming into force of this section in an area of exclusive provincial jurisdiction, if the province carries on a program or initiative that is compatible with the national objectives.

Legislative power not extended

(2) Nothing in this section extends the legislative powers of the Parliament of Canada or of the legislatures of the provinces."

8. The said Act is further amended by adding thereto the following heading and sections:

"XII—CONFERENCES ON THE ECONOMY AND OTHER MATTERS

Conferences on the economy and other matters

148. A conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year to discuss the state of the Canadian economy and such other matters as may be appropriate.

XIII—REFERENCES

Reference includes amendments

149. A reference to this Act shall be deemed to include a reference to any amendments thereto."

Constitution Act, 1982

9. Sections 40 to 42 of the *Constitution Act, 1982* are repealed and the following substituted therefor:

Compensation

"**40.** Where an amendment is made under subsection 38(1) that transfers legislative powers from provincial legislatures to Parliament, Canada shall provide reasonable compensation to any province to which the amendment does not apply.

Amendment by unanimous consent

41. An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province:

(*a*) the office of the Queen, the Governor General and the Lieutenant Governor of a province;

(*b*) the powers of the Senate and the method of selecting Senators;

(*c*) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;

(*d*) the right of a province to a number of members in the House of Commons not less than the number of Senators by which the province was entitled to be represented on April 17, 1982;

(*e*) the principle of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada;

(*f*) subject to section 43, the use of the English or the French language;

(*g*) the Supreme Court of Canada;

(*h*) the extension of existing provinces into the territories;

(*i*) notwithstanding any other law or practice, the establishment of new provinces; and

(*j*) an amendment to this Part."

10. Section 44 of the said Act is repealed and the following substituted therefor:

Amendments by Parliament

"**44.** Subject to section 41, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons."

11. Subsection 46(1) of the said Act is repealed and the following substituted therefor:

Initiation of amendment procedures

"**46.** (1) The procedures for amendment under sections 38, 41 and 43 may be initiated either by the Senate or the House of Commons or by the legislative assembly of a province."

12. Subsection 47(1) of the said Act is repealed and the following substituted therefor:

Amendments without Senate resolution

"**47.** (1) An amendment to the Constitution of Canada made by proclamation under section 38, 41 or 43 may be made without a resolution of the Senate authorizing the issue of the proclamation if, within one hundred and eighty days after the adoption by the House of Commons of a resolution authorizing its issue, the Senate has not adopted such a resolution and if, at any time after the expiration of that period, the House of Commons again adopts the resolution."

13. Part VI of the said Act is repealed and the following substituted therefor:

"PART VI

CONSTITUTIONAL CONFERENCES

Constitutional conference

50. (1) A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year, commencing in 1988.

Agenda

(2) The conferences convened under subsection (1) shall have included on their agenda the following matters:

(*a*) Senate reform, including the role and functions of the Senate, its powers, the method of selecting Senators and representation in the Senate;

(*b*) roles and responsibilities in relation to fisheries; and

(*c*) such other matters as are agreed upon."

14. Subsection 52(2) of the said Act is amended by striking out the word "and" at the end of paragraph (*b*) thereof, by adding the word "and" at the end of paragraph (*c*) thereof and by adding thereto the following paragraph:

"(*d*) any other amendment to the Constitution of Canada."

15. Section 61 of the said Act is repealed and the following substituted therefor:

References

"**61.** A reference to the *Constitution Act 1982*, or a reference to the *Constitution Acts 1867 to 1982*, shall be deemed to include a reference to any amendments thereto."

General

Multicultural heritage and aboriginal peoples

16. Nothing in section 2 of the *Constitution Act, 1867* affects section 25 or 27 of the *Canadian Charter of Rights and Freedoms*, section 35 of the *Constitution Act, 1982* or class 24 of section 91 of the *Constitution Act, 1867*.

CITATION

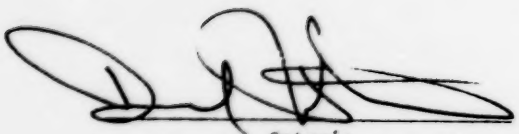
Citation

17. This amendment may be cited as the *Constitution Amendment, 1987*.

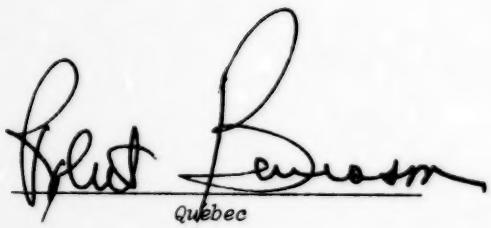
Signed at Ottawa,
June 3, 1987

Fait à Ottawa
le 3 juin 1987

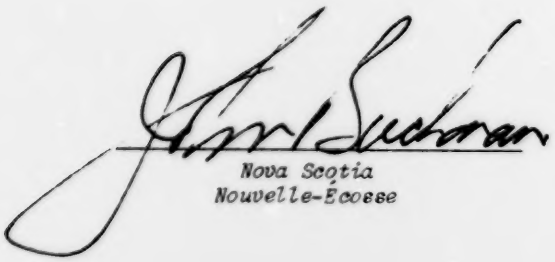
Canada



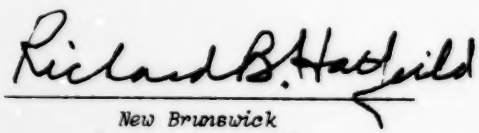
Ontario



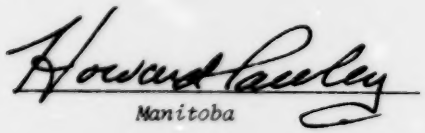
Quebec



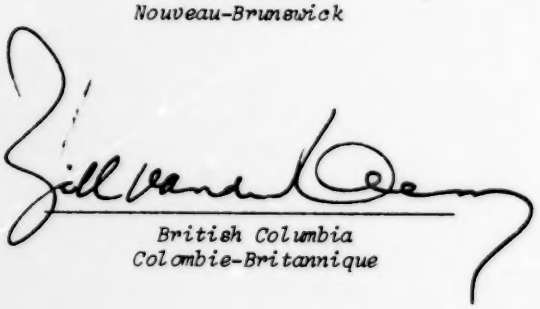
Nova Scotia
Nouvelle-Écosse



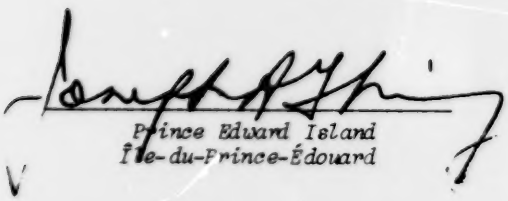
New Brunswick
Nouveau-Brunswick



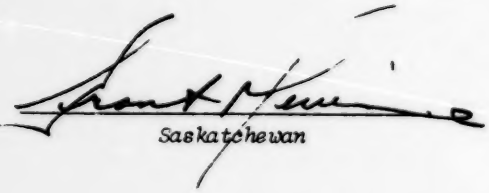
Manitoba



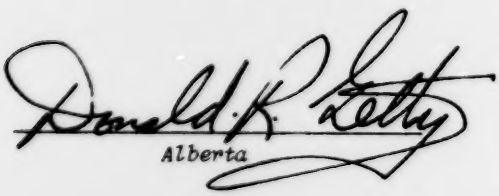
British Columbia
Colombie-Britannique



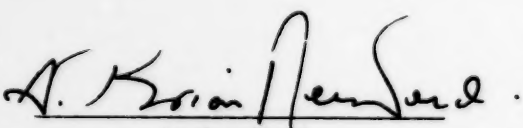
Prince Edward Island
Île-du-Prince-Édouard



Saskatchewan



Alberta



Newfoundland
Terre-Neuve